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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
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10 TUAN T. NGUYEN & BINHTHUY L.
11 NGUYEN,

12 Plaintiffs,

13 vs.

14 AEGIS FUNDING CORPORATION;
15 AMERICAS SERVICING COMPANY;
16 SPECIALIZED LOAN SERVICING,
17 LLC; NDEX WEST, LLC, and DOES 1-
18 10,

19 Defendants.

CASE NO. 09cv1411-WQH-RBB

ORDER

20 HAYES, Judge:

21 On June 29, 2009, Plaintiffs initiated this action by filing the Complaint in this Court.
22 (Doc. # 1). The Complaint alleges various claims related to a “Promissory Note ... entered into
23 on or about April 19, 2006 by and between Plaintiffs and Defendant Aegis Funding
24 Corporation.” (Doc. # 1 at 5).

25 On July 27, 2009, Defendant Specialized Loan Servicing, LLC filed a Motion to
26 Dismiss the Complaint (Doc. # 3), and on September 17, 2009, Defendant America’s Servicing
27 Company filed a Motion to Dismiss the Complaint (Doc. # 9).

28 On August 6, 2009 and August 19, 2009, Defendant Aegis Funding Corporation filed
a “Suggestion of Bankruptcy” with this Court. (Doc. # 6, 8). The Suggestion of Bankruptcy
notified the Court that on August 13, 2007, Aegis Funding Corporation filed a bankruptcy case
under Chapter 11 of the United States Bankruptcy Code in the District of Delaware,
Bankruptcy case number 07-11119-BLS.

1 Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a), operates as an automatic
 2 stay of the commencement or continuation of a judicial proceeding against the debtor,
 3 commenced prior to the filing of bankruptcy. However, “[i]n the absence of special
 4 circumstances, stays pursuant to section 362(a) are limited to debtors and do not include
 5 non-bankrupt co-defendants.” *Ingersoll-Rand Fin. Corp. v. Miller Mining Co., Inc.*, 817 F.2d
 6 1424, 1427 (9th Cir. 1987) (citations omitted). The Ninth Circuit explained that under “special
 7 circumstances,” the bankruptcy court may extend to stay to other entities pursuant to 11 U.S.C.
 8 § 105(a) (“The court may issue any order, process, or judgment that is necessary or appropriate
 9 to carry out the provisions of this title.”). *Ingersoll-Rand Fin. Corp.*, 817 F.2d at 1427. The
 10 Ninth Circuit held that in “the absence of any order from the bankruptcy court staying
 11 proceedings as to the [non-bankrupt co-defendants],” a plaintiff’s action may proceed against
 12 the non-bankrupt co-defendants. *Id.*

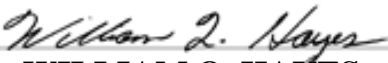
13 No filing in this Court has indicated that the bankruptcy stay which applies to
 14 Defendant Aegis Funding Corporation has been extended to any other parties.

15 IT IS HEREBY ORDERED that the action in this Court is **STAYED as to Defendant**
 16 **Aegis Funding Corporation only**. This action is **NOT STAYED as to Plaintiff’s claims**
 17 **against all other Defendants**.

18 Any opposition to the pending Motions to Dismiss (Doc. # 3, 9) must be filed no later
 19 than October 26, 2009. Any reply must be filed no later than November 2, 2009. There will
 20 be no oral argument on either Motion to Dismiss.

21 Defendant Aegis Funding Corporation is ordered to notify the Court in writing of any
 22 changes in the bankruptcy case relevant to this action, including but not limited to a discharge
 23 or dismissal of the bankruptcy case. The Clerk of the Court shall mail a copy of this Order to
 24 counsel for Defendant Aegis Funding Corporation, as listed in the Suggestion of Bankruptcy.
 25 (Doc. # 6 at 2).

26 DATED: October 14, 2009

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 28 **WILLIAM Q. HAYES**
 United States District Judge